

Message

From: Carson, David A (ENRD) [David.A.Carson@usdoj.gov]
Sent: 8/9/2017 2:53:30 PM
To: Ford, Peter [Ford.Peter@epa.gov]; Williamson, Timothy [Williamson.Tim@epa.gov]
CC: Williams, Ann [Williams.Ann@epa.gov]; Knapp, Michael [Knapp.Michael@epa.gov]; Siegal, Tod [Siegal.Tod@epa.gov]; Prabhu, Aditi [Prabhu.Aditi@epa.gov]; Schroer, Lee [schroer.lee@epa.gov]
Subject: RE: Scanned document from ENRD eCOPY

Atty Client / Atty WP / Deliberative / Ex.5

Dave

-----Original Message-----

From: Ford, Peter [mailto:Ford.Peter@epa.gov]
Sent: Wednesday, August 09, 2017 8:28 AM
To: Carson, David A (ENRD) <DCarson@ENRD.USDOJ.GOV>; Williamson, Timothy <Williamson.Tim@epa.gov>
Cc: Williams, Ann <Williams.Ann@epa.gov>; Knapp, Michael <Knapp.Michael@epa.gov>; Siegal, Tod <Siegal.Tod@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: Scanned document from ENRD eCOPY

Adding Lee since we're in the process of transferring my role to Aditi.

Atty Client / Atty WP / Deliberative / Ex.5

U.S. EPA Office of General Counsel
202.564.5593

-----Original Message-----

From: Carson, David A (ENRD) [mailto:David.A.Carson@usdoj.gov]
Sent: Wednesday, August 09, 2017 10:21 AM
To: Williamson, Timothy <Williamson.Tim@epa.gov>

Cc: Williams, Ann <Williams.Ann@epa.gov>; Knapp, Michael <Knapp.Michael@epa.gov>; Siegal, Tod <Siegal.Tod@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>
Subject: RE: Scanned document from ENRD eCOPY

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-----Original Message-----

From: Williamson, Timothy [mailto:Williamson.Tim@epa.gov]
Sent: Tuesday, August 08, 2017 11:45 PM
To: Carson, David A (ENRD) <DCarson@ENRD.USDOJ.GOV>
Cc: Williams, Ann <Williams.Ann@epa.gov>; Knapp, Michael <Knapp.Michael@epa.gov>; Siegal, Tod <Siegal.Tod@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>
Subject: Re: Scanned document from ENRD eCOPY

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Best. Tim

Sent from my iPhone

> On Aug 8, 2017, at 7:47 PM, Carson, David A (ENRD) <David.A.Carson@usdoj.gov> wrote:

Atty Client / Atty WP / Deliberative / Ex.5

> Dave

> From: Carson, David A (ENRD)

> Sent: Tuesday, August 08, 2017 5:34 PM

> To: David M. Kallin <DKallin@dwmlaw.com>; Kaighn Smith, Jr. (KSmith@dwmlaw.com) <KSmith@dwmlaw.com>

> Subject: FW: Scanned document from ENRD eCOPY

> David, Kaighn: Attached is the brief that I was trying to recall during our phone call. It actually argues that there is no general requirement that an agency seek either a stay or a remand before it may reconsider a challenged decision, but that Congress may of course impose such a requirement. And there is some discussion of case law regarding remands in cases where the underlying agency proceedings are formal adjudications. I read this brief to argue that EPA would not be required to seek a remand if it determines to change any decisions at issue in this case. Though I have not done any independent research, so please let me know if you have First Circuit law to the contrary. Though, as stated in the draft motion I sent you, at this point EPA is seeking a stay in order to reconsider the decisions and it has not yet made any determination of whether it will change any challenged decision. So, a further stay is appropriate. I should also note that it is not up to me to tie EPA's hands to a further stay, as opposed to a remand, if EPA were to determine in the future that a remand is appropriate. As promised in our call, I'm simply providing you the materials I had referenced in our call on whether the law requires EPA to seek a remand.

> While I certainly do not want to discourage any additional calls to me, I understand you will send me an email with any specific questions or concerns so that I can discuss them with EPA. If necessary, I can also try to arrange a call with EPA attorneys on the line. As I mentioned, I am generally not involved in EPA's administrative proceedings and I therefore hesitate to say anything that could be taken to mean that EPA necessarily will proceed in a particular manner, especially in areas where EPA has discretion.

> Thanks,

> Dave

> From: eCopy, ShareScan (ENRD)

> Sent: Tuesday, August 08, 2017 4:44 PM
> To: Carson, David A (ENRD) <DCarson@ENRD.USDOJ.GOV<mailto:DCarson@ENRD.USDOJ.GOV>>
> Subject: Scanned document from ENRD eCOPY
>
> This document was scanned from an ENRD eCopy/ShareScan Copier.
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